

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

LULA WILLIAMS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:17-cv-461 (REP)
)	
BIG PICTURE LOANS, LLC, et al.,)	
)	
Defendants.)	

RENEE GALLOWAY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:18-cv-406 (REP)
)	
BIG PICTURE LOANS, LLC, et al.,)	
)	
Defendants.)	

**MATT MARTORELLO’S MOTION TO FILE EXPERT
REPORTS UNDER SEAL AND MEMORANDUM IN SUPPORT**

In compliance with the Court’s July 9, 2020 Orders in *Williams v. Big Picture Loans, LLC*, No. 3:17cv461 (“*Williams*”) (ECF No. 819) and *Galloway v. Big Picture Loans, LLC*, No. 3:18cv406 (“*Galloway I*”) (ECF No. 479), and E.D. Va. Loc. R. 5(C), Matt Martorello (“Martorello”) respectfully moves for an Order sealing the expert reports of Gregory Cowhey, John M. Norman, and Richard E. Ross contemporaneously filed herewith. In support thereof, Martorello states as follows:

Under Rule 5(C) of the Local Rules of this Court, a motion to file documents under seal “shall be accompanied by a non-confidential supporting memorandum, a separate non-confidential notice that specifically identifies the motion as a sealing motion, and a nonconfidential proposed order.” E.D. Va. Loc. R. 5(C). The non-confidential memorandum

must contain: (1) a non-confidential description of what material has been filed under seal; (2) a statement why sealing is necessary, and why another procedure will not suffice, as well as appropriate evidentiary support for the sealing request; (3) references to the governing case law, an analysis of the appropriate standard to be applied for that specific filing, and a description of how that standard has been satisfied; and (4) unless permanent sealing is sought, a statement as to the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon unsealing. *Id.* The required notice must state that any parties or non-parties “may submit memoranda in support of or in opposition to the motion within seven (7) days after the filing of the motion to seal.” *Id.*

Each of the reports Martorello seeks to file under seal has been previously filed under seal with this Court and remains under seal. in the past. *See Williams*, ECF No. 366-7 (report of Mr. Norman); ECF No. 366-9 (report of Mr. Cowhey); ECF No. 366-11 (report of Mr. Ross); *see also Williams*, ECF No. 385 and ECF No. 527 at 3–4.

As set forth in prior pleadings, Mr. Norman’s report contains his opinion regarding the seller-financing terms of the merger transaction between LVD, Bellicose Capital, and Eventide. The report includes nonpublic information about distributions made under the terms of that agreement and related agreements. As courts in this Circuit have recognized, documents containing non-public financial information about, as well as those involving “investment and financing transactions,” or “the actual terms of other transactions” may be properly kept under seal as confidential commercial information. *See Maxtena, Inc. v. Marks*, Civil Action No. DKC 11-0945, 2013 WL 12328065, at *3 (D. Md. Mar. 29, 2013). Martorello has publicly filed a version of this document with redactions to information regarding distributions made under the terms of the agreement, which are limited to a single page of the document, both in connection

with the Court's July 9, 2020 Order and previously. *See Williams*, ECF No. 527-1.

Mr. Cowhey's report contains his opinion regarding the merger transaction between LVD, Bellicose Capital, and Eventide. As such, the report and the exhibits attached to it contain confidential financial information about the entities involved in that transaction and the promissory note held by Eventide. As discussed above, documents containing non-public financial information about, as well as those involving "investment and financing transactions," or "the actual terms of other transactions" may be properly kept under seal as confidential commercial information. *See Maxtena*, 2013 WL 12328065, at *3 (D. Md. Mar. 29, 2013). Martorello has publicly filed a version of this document with limited redactions to the report and relevant exhibits, both in connection with the Court's July 9, 2020 Order and previously. *See Williams*, ECF No. 527-2.

Finally, Mr. Ross's report contains his opinions "regarding the customs, practices and standards in the banking industry as it relates to small dollar installment loan consumer financing." As such, the report contains sensitive commercial information regarding the lending business's operations, financial performance, and also discusses the Bellicose merger agreement. Such documents containing "non-public historical data about [a] company's revenues, operating expenses, gross margins, and profits," as well as information about business transactions and business transactions, may properly be sealed as confidential commercial information. *See Maxtena*, 2013 WL 12328065, at *3 (D. Md. Mar. 29, 2013). Martorello has publicly filed a version of this document with limited redactions, both in connection with the Court's July 9, 2020 Order and previously. *See Williams*, ECF No. 527-3.

Accordingly, Martorello has filed this Motion and the Notice of Filing a Motion to Seal filed contemporaneously herewith. To maintain these documents under seal, any other party or

non-party in interest must in turn file the proposed order required by Local Rule 5(C) and a non-confidential memorandum satisfying the other requirements under Local Rule 5(C) within seven (7) days of the filing of this motion.

WHEREFORE, Matt Martorello respectfully moves for an Order sealing the expert reports of Gregory Cowhey, John M. Norman, and Richard E. Ross contemporaneously filed herewith until resolution of any arguments pertaining to sealing these Exhibits that may be raised by any other party or non-party to this action within the seven (7) days allowed under Local Rule 5(C).

Respectfully submitted,

MATT MARTORELLO

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on this 9th day of July, 2020, the foregoing was filed using the Court's CM/ECF system, thereby serving a copy on all counsel of record electronically.

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